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SUBJECT: DRC: 2010 INVESTMENT CLIMATE STATEMENT

REF: 09 STATE 124006

¶1. (U) Per reftel, the following is the text of the Investment Climate Statement for the DRC for 2010.

Openness to Foreign Investment

¶2. (U) The DRC's rich endowment of natural resources, large population size (approximately 68 million) and generally open trading system provide significant potential opportunities for U.S. investors. At the same time, the DRC remains a highly challenging environment in which to do business. The DRC was ranked 182 out of 183 in the 2010 World Bank's Doing Business report, the second most difficult country in the world in which to do business. The DRC had previously been ranked dead last in the 2008 and 2009 Doing Business rankings- 181 out of 181 countries. The DRC was also ranked 173 out of 179 countries on the 2009 Heritage Foundation's Economic Freedom Index. Underdeveloped infrastructure, inadequate contract enforcement, limited access to credit, continued insecurity in the eastern part of the DRC, lack of adequate property rights protection, and high levels of both bureaucracy and corruption continue to constrain private sector development.

¶3. (U) Since the democratic Presidential, Parliamentary and provincial elections in 2006, the Democratic Republic of Congo (DRC) has continued to make progress, albeit slowly, in addressing the country's significant political, economic, and social challenges. The DRC seeks to attract foreign investors in order to boost production and increase economic growth. Congolese investment regulations, codified in the Investment Code, do not discriminate against foreign investors, except in some specific cases dealing with labor and related taxes. To overcome previous hurdles and to simplify and facilitate investment, the GDRC has created a one-stop agency called the National Agency for Investment Promotion (ANAPI). This agency is using the provisions of the new Investment Code to work to simplify new investments and to make the procedures more transparent. With support from international donors, the GDRC is also working to implement a series of reforms aimed at improving the business climate. Specifically, the GDRC has launched a steering committee under the Ministry of Plan to improve the GDRC's ranking on the World Bank's Doing Business

report.

¶4. (U) Broadly, there are no formal limits or screening mechanisms imposed upon foreign ownership of businesses in the DRC. Small businesses, however, are still subject to presidential decrees number 79-021 of August 2, 1979 and number 90-046 of August 8, 1990, which prohibit foreign investors from engaging in retail commerce. The processes of granting permits and licenses in the mining and telecommunication sectors often suffer from arbitrariness, lack of transparency, and corruption.

¶5. (U) All investors in the DRC suffer from multiple audits by various government enforcement agencies seeking evidence of violations of tax laws or price controls. Foreigners and Congolese alike suffer the consequences of non-functional judicial institutions. The inadequate physical infrastructure - including internal transportation, energy, and social infrastructure - is a result of years of civil war and literally decades of mismanagement, negligence, and a lack of clear public policies in the infrastructure sector. International donors and a recently concluded multi-billion dollar Sino-Congolese agreement will provide critically needed resources for infrastructure development, but constraints will exist in the short-term.

¶6. (U) Restructuring of approximately 60 Congolese parastatals,

including perennial money losers such as the national electricity (SNEL), river transportation (ONATRA) and rail (SNCC) companies, continues, though slowly. The GDRC acknowledges the need for reform and the Portfolio Ministry continues to work to improve the situation. The government and state-owned Societe Nationale d'Electricite (SNEL) have begun to open the energy sector to private investment.

¶7. (U) The DRC's economic environment changed dramatically beginning in late 2008 and throughout 2009 as a result of the impact of the global financial crisis. GDP growth for 2009 is projected at only 2.7 percent, a significant reduction from earlier projections. The once robust mining sector significantly contracted during late 2008 and early 2009 due to falling international commodities prices, a tightening of international credit, and dampened investor confidence in the sector. With the support of international emergency assistance and improved prices for key export commodities, the DRC's macroeconomic situation has stabilized and the economy has begun to recover. GDP growth for 2010 is projected at 5.4%. The IMF's Executive Board approved a new three-year Poverty Reduction and Growth Facility (PRGF) in December 2009.

Conversion and Transfer Policies

¶8. (U) The DRC adopted a freely floating exchange policy in 2001 as part of the implementation of broader economic reforms. The DRC has also lifted restrictions on business transactions nationwide. International transfers of funds take place freely when sent through a local commercial bank. The bank declaration requirement and payments for international transfers now take less than one week to complete, on average.

¶9. (U) The Central Bank is responsible for regulating foreign exchange and trade. The only currency restriction imposed on travelers is a USD 10,000 limit on the amount an individual can

carry when entering or leaving the DRC. The GDRC also requires that the Central Bank license exporters and importers. The DRC's parallel foreign exchange market is large and tolerated by the government. The largest banknote in circulation is the 500 Congolese franc note; larger denominations (1,000 Congolese francs and 5,000 Congolese francs) may be put into circulation sometime in the future. The DRC's economy remains highly dollarized.

¶10. (U) Following several years of relative exchange rate stability as a result of tight monetary policy, the DRC's currency, the Congolese Franc, depreciated by 35% against the U.S. dollar between December 2008 and September 2009. The currency has begun to stabilize as overall macroeconomic conditions began to improve starting in late 2009. International reserves had hit a historically low level of $30 million in February 2009, but significantly increased throughout the remainder of 2009 due to the disbursement of emergency financial assistance from several international donors, the arrival of the first tranche of a signing bonus under the Sino-Congolese minerals-infrastructure agreement, and the DRC's drawing on the IMF's Special Drawing Rights (SDR) allocation.

Expropriation and Compensation

¶11. (U) The DRC's land law allows for expropriation of property by the GDRC for the sake of public interest, such as the protection of

community heritage, completing public works (such as infrastructure projects) and the presence of precious minerals. The illegitimate acquisition of property is also grounds for expropriation. In any case of expropriation, the GDRC is required to offer fair compensation; as with many Congolese laws, these requirements are not always fully respected.

¶12. (U) There have been no expropriation actions against U.S. citizens in the recent past. Post is aware of a number of existing claims against the GDRC that date from 1991 to 2002, some of which were taken to arbitration (see Dispute Settlement section below). Arbitration judgments against the GDRC, however, have not been paid in a timely manner, if at all. There are no laws forcing local ownership, although parastatal companies involved in the petroleum and mining sectors maintain minority shares of most foreign-owned projects.

¶13. (U) A recent GDRC review of 61 mining contracts between DRC public enterprises and private companies between 1997-2002 was plagued by numerous delays and a lack of transparency. The GDRC officially announced the conclusion of the contract review in November 2009. However, the largest foreign investor in the mining sector, a U.S. majority investor, has yet to reach agreement with the government under its contract review and negotiations continue. A recent review of concessions in the logging sector aimed at cleaning-up corruption in the sector resulted in the cancellation of approximately two-thirds of the over 150 timber logging contracts. While not without issues, the forestry sector conversion process has been largely successful in addressing many concerns for the sector. The GDRC continues to work with civil society, local communities and logging companies on implementation of post-conversion requirements.

Dispute Settlement

¶14. (U) The U.S.-DRC Bilateral Investment Treaty (BIT) provides for International Center for Settlement of Investment Disputes (ICSID) reconciliation or binding arbitration in the case of investment disputes. A number of U.S. firms pursued claims against the GDRC for damages resulting from civil disturbances by military mutinies in 1991 and 1993. Two investors have won settlements from the ICSID. In early 2004, a claimant under the BIT won a settlement from ICSID but has not yet collected payment from the GDRC. The other investor, who successfully collected the compensation awarded by ICSID, received damages in 1999.

¶15. (U) The DRC is not a Party to the New York Convention of 1958 on the Recognition and Enforcement of Foreign Arbitral Awards. On paper, the DRC's official policies are satisfactory and even attractive to business, but in recent years they have often been inoperative in practice due to problems with the judicial system. Courts are marked by a high degree of corruption, public administration is not reliable, and both expatriates and nationals are subject to selective application of a complex legal code. Official channels often do not provide direct and transparent recourse in the event of property seizure, for which legal standing can rarely be determined. Seizures have been made via the police and/or military, often supported by questionable decisions from the courts. Foreign enterprises may have slightly better security of ownership due to the presence and intervention of their diplomatic missions. Many Congolese business contracts provide for external arbitration, but this is an expensive and time-consuming option with little value for resolving routine, day-to-day business problems.

¶16. (U) In 2008, the DRC established commercial courts in Kinshasa

and Lubumbashi for the first time, with additional commercial courts scheduled to be established shortly in the remaining DRC provinces. These courts are slated to be led by professional judges with expertise in commercial matters and may assist investors to address commercial claims within an otherwise inadequate judicial system. The DRC is poised to join OHADA (Organization for the Harmonization of Business Laws); the DRC Parliament passed the required legislation for OHADA accession in December 2009. OHADA members agree to adopt a common set of commercial laws - including contract, company and bankruptcy laws - and to submit interpretation of those laws to the final jurisdiction of the OHADA court, which sits in Abidjan in the Ivory Coast.

Performance Requirements and Incentives

¶17. (U) The DRC does not have any barriers specifically targeting or restricting U.S. trade or investment. The DRC has not maintained any measures that are inconsistent or violate the WTO's TRIMs requirements. The DRC 2002 Investment Code is a simplified and improved version of its predecessor. Although there are no specific performance requirements for foreign investors, there are investment conditions that must be agreed upon with the GDRC. These conditions are discussed and agreed upon with the DRC investment agency, ANAPI, which assures equitable treatment and procedures for all qualified foreign investments. The DRC has shortened this agreement procedure to approximately 30 days, and has created a number of incentives to attract foreign investment to the country. Pro-business incentives range from tax breaks to duty exemptions granted for three to five years, and are dependent upon the location and type of enterprise, the number of jobs created, the extent of training and promotion of local staff, and the export-producing potential of the operation. Investors who wish to

take advantage of customs and tax incentives of the new 2002 Investment Code must apply to ANAPI, who will in turn submit their applications to the Ministries of Finance and Plan for approval. The Ministry of Labor controls expatriate residence and work permits. For U.S. companies, the BIT assures the right to hire staff of their choice to fill some management positions, but the companies agree to pay a special tax on expatriate salaries. There is no requirement that investors purchase from local sources or export a certain percentage of output.

¶18. (U) Performance requirements agreed upon initially with ANAPI include a timeframe for the investment, the use of Congolese accounting procedures and periodic authorized GDRC audits, the protection of the environment, periodic progress reports to ANAPI, and the maintenance of international and local norms for the provision of goods and services. The investor must also agree that all imported equipment and capital will remain in place for at least five years. There is no discriminatory or excessively onerous visa, residence or work permit requirement designed to prevent or discourage foreigners from investing in the DRC, though corruption and bureaucracy can create delays in obtaining necessary permits. In 2008, the GDRC passed a resolution to abolish four burdensome requirements for establishing a company in the DRC, including the civil servant attestation, resident's certification, a document with the company seal on it, and a police background check certification. ANAPI and the Congolese Chamber of Commerce (FEC) play a vital role in addressing business issues in the DRC.

¶19. (U) According to the terms of the Investment Code, the GDRC may require compliance with an investment agreement within 30 days of notification. Continued violations of an agreement may result in sanctions, including repayment of benefits received (such as tax exemptions) and eventual nullification of the agreement.

¶20. (U) In the case of a dispute between a U.S. investor and a

GDRC agency, the investor is subject to the Congolese civil code and legal system. If the parties cannot reach agreement, under the terms of the U.S.-DRC BIT the dispute is taken to the ICSID or to the Paris-based International Chamber of Commerce (ICC).

¶21. (U) GDRC public administration reforms implemented since 2002 have allowed foreign investors to bid on government contracts just as domestic investors, with no discriminatory terms. Foreign firms may even be favored in the bidding process because they can more easily access and present international insurance funding guarantees. There is no discrimination against U.S. or foreign firms in participating in government- sponsored or subsidized research and development programs, since participation is done on a national treatment basis. With the sponsorship and technical assistance of the World Bank, a tender board now works under the supervision of the Ministry of Budget. Normally, however, public companies and/or parastatals do not participate in the bidding process, due to the financing guarantees required beforehand. In addition, contracts are often negotiated directly with the GDRC, not through an international tender process, thus reducing transparency. A new procurement law has been submitted to Parliament, but has yet to be passed.

Right to Private Ownership and Establishment

¶22. (U) The DRC's Constitution (chapter 2, articles 34-40) protects private ownership without discrimination between foreign and domestic investors. It also protects investments against

takeover, unless the investment conflicts with some overriding public interest. In this case, there are legal provisions for equitable and appropriate compensation for the parties involved.

¶23. (U) Foreign investors can operate in the DRC either through establishing a branch or local subsidiary. The individual business may either be designated a(##)Commodite Simple" (SNC), Responsability Limit(SPRL), a
(##)
Cooperative."
The most common adopted forms of establishment are the SPRL and SARL, which are both limited liability companies. While in an SPRL shares are not freely negotiable, incorporation of an SARL requires a minimum of seven shareholders. Furthermore, incorporation of an SARL requires both authorization of the Head of State and the government must receive 6 percent of share capital.

¶24. (U) The GDRC has restricted one category of small businesses to Congolese nationals. This covers artisanal production sector activities, small public transport firms, small restaurants, and hotels with fewer than ten beds. Despite GDRC restrictions, some foreign-owned small retailers, particularly Chinese-owned stores, have recently appeared on the market.

Protection of Property Rights

¶25. (U) Despite the new DRC Constitution and attempts to enforce existing legal provisions, protection of property rights remains weak and dependent upon a currently dysfunctional public administration and judicial system. Some senior-level officials are making efforts to restore and improve the legal and administrative frameworks, but the challenge remains to implement

these changes at a practical level.

¶26. (U) Ownership interest in movable properties (e.g. equipment, vehicles, etc.) is secured and registered through the Ministry of the Interior's Office of the Notary. Real estate property (e.g. buildings and land) is secured and registered at the Ministry of Land's Office of the Mortgage Registrar.

¶27. (U) The GDRC continues to undertake efforts to improve IPR-related legislation and build capacity to improve implementation and enforcement. In principle, intellectual property rights are legally protected in the DRC, but enforcement of IPR regulations is virtually non-existent. The DRC's legal system and public administration do not have the capacity to enforce intellectual property regulations. The country is a signatory to a number of international agreements with organizations such as the World Intellectual Property Organization (WIPO), and the Paris Convention for the Protection of Intellectual Properties, which protects trademarks and patents. The DRC is also a member of the Berne Convention that protects copyrights, artistic works, and literary rights. The maximum protection that these conventions provide is 20 years for patents and 20 years, renewable, for trademarks, beginning from the date of registration. If it is not used within three years, a trademark can be cancelled. The DRC has not yet signed the WIPO Internet Treaties. The Minister of Justice has presented a law to the government that seeks to rectify the flaws of the existing 1986 IPR law. The law is still pending Parliamentary approval.

Transparency of the Regulatory System

¶28. (U) Implementing a transparent regulatory system is still a challenge in the DRC. The GDRC is making some effort to improve the situation, including through appropriate legislation enacted by the parliament. Implementation and compliance, however, are still far from securing a complete legal and regulatory framework for the orderly conduct of business and the protection of investment. The GDRC authority on business standards, the Congolese Office of Control (OCC), oversees participation by foreign businesses.

¶29. (U) There are no formal or informal provisions by any private or public structure, in any business-related environment, used to impede foreign investment. Problems encountered within the GDRC tend to be administrative and/or bureaucratic in nature since reforms and improved laws and regulations are often poorly or unevenly applied. Proposed laws and regulations are not published in draft format for public discussion and comments. Normally the only discussion occurs within the governmental or administrative entity that drafts them and at the parliament prior to a vote. The Congolese public, as well as foreign and domestic investors, do not receive an adequate opportunity to discuss or comment on these proposals.

¶30. (U) The IMF and the World Bank are working with the GDRC to bring the country into compliance with international business norms for accounting, legal, and regulatory systems. The World Bank's International Finance Corporation (IFC) has launched a program to establish "Special Economic Zones" to help jumpstart investments. The GDRC has made progress towards joining the Organization for the Harmonization of Business Law in Africa (OHADA) to help the DRC to modernize its legal standards.

¶31. (U) In 2008, the DRC became a candidate country for the Extractive Industries Transparency Initiative (EITI), a

multi-stakeholder effort to increase transparency in transactions between governments and companies in the extractive industries. The GDRC has taken some positive steps under EITI, including establishment of a National EITI Committee, publication of the first report on EITI in the DRC, and the hiring of an independent auditor to carry out the validation of the EITI process. However, the DRC still has to organize a workshop to present the report at the provincial and national levels and have the EITI process validated before being declared an "EITI-complaint" country by the March 10, 2010 deadline set by the International EITI Secretariat.

Efficient Capital Markets and Portfolio Investment

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¶32. (U) Economic growth in the DRC since 2002 has increased the flow of money in the finished goods and raw materials market. Credit markets are also becoming more active, mainly in the commercial project and medium-term project sectors. All economic operators, foreign and domestic, have access to credit markets in the DRC without discrimination, as long as they can provide credible guarantees. Foreign investors, though, are more likely to benefit from this type of credit, since they are able to provide guarantees and collateral secured by foreign banks.

¶33. (U) The commercial banking system has undergone a full

reorganization and continues to expand. However, the commercial banking sector remains small. During 2009, six new commercial banks opened in the DRC, as well as 62 new branches. Strengthened supervision of the commercial banking sector, including improving the regulatory framework for the financial sector, is a component of DRC's formal IMF program. There are currently 18 commercial banks, two specialized financial institutions, one savings bank, eighty-two co-operative banks, and fourteen micro-finance institutions, with a total of 200,000 accounts. The volume of savings increased from USD 97.2 million in 2001 to USD 934 million at the end of June 2008, a growth of 861 percent. Credits grew from USD 48 million to USD 576 million during the same period, an increase of over 1,000 percent.

¶34. (U) Portfolio investment is not yet developed in the DRC. Business practices in the DRC are still at a fairly rudimentary level. Cross-shareholding and stable shareholding arrangements are not common in the DRC. There are occasional complaints about unfair competition between investors in profitable sectors such as mining and telecommunications.

Competition from State-Owned Enterprises (SOEs)

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¶35. (U) The GDRC, with support from international donors, continues to work to reform state-owned enterprises (SOEs). To boost the efficiency of SOEs, many of which have been plagued by years of mismanagement, Prime Minister Adolph Muzito signed five ministerial decrees in April 2009. The decrees focused on transforming these SOEs into profitable commercial companies, public establishments (which would be autonomous from any ministry) and public services (which are directly tied to a particular ministry). Some SOEs would be dissolved. SOEs that have been targeted for reform include those operating in the mining, energy, industry, transport, telecommunications and finance sectors. The government and state-owned Societie Nationale d'Electricite (SNEL) have begun to open the energy sector to private investment.

Corporate Social Responsibility (CSR)

¶36. (U) Awareness about Corporate Social Responsibility (CSR) is growing, and many of the large, multinational investors in the DRC have formal CSR programs. Under the Mining Code of 2002, mining companies are required to submit an environmental impact statement. Mining companies are also required to support infrastructure projects, such as roads, schools and hospitals. Corporate Social Responsibility provisions are also included in the 2002 Forestry Code, which requires forestry concessionaires to support social and physical infrastructure projects in the communities in which they operate. CSR is also reflected in the sustainable use of forestry resources. In November 2009, the Ministry of Environment, Conservation and Tourism held a workshop to analyze and propose procedures for local communities to share benefits from logging concessions. Participants at the workshop agreed on key principles that may guide the implementation of corporate social responsibility within the DRC forestry sector, including a social agreement that engages reciprocally both sides (the timber concession companies and the local communities) and payment by timber concession companies that would be done at two levels (construction of socioeconomic infrastructure on a per cubic meter of harvested timber basis and in-kind payment for actions of common interest). The local community would collaborate with concessionaires to fight against illegal logging and wildlife poaching and also participate in the sustainable management of forest resources.

Political Violence

¶37. (U) The DRC has suffered bouts of civil unrest and conflict for many years. Large-scale military looting in 1991 and 1993, for example, resulted in significant loss of economic productive capacity. In addition, widespread looting and destruction associated with wars in the DRC from 1996-1997 and from 1998-2003 further damaged Congolese economic activity.

¶38. (U) National and provincial governments were elected at the end of 2006 in the country's first democratic national elections in more than 40 years. Despite technical and logistical difficulties, coupled with isolated incidents of violence and intimidation, the elections were held in a largely calm and orderly fashion. Post-election disturbances occurred in March 2007 in Kinshasa, resulting in the deaths of civilians and military personnel.

¶39. (U) The United Nations has its largest peacekeeping operation in the world in the DRC. Known by its French acronym of MONUC, it has nearly 20,000 peacekeepers deployed in the country - primarily in the east. Violence nevertheless persists in the eastern DRC due to the presence of several militias and foreign armed groups, with sporadic outbreaks occurring in North Kivu, South Kivu, and northern Katanga provinces, as well as the Ituri and Haut-Uele Districts of Orientale province, and sporadically in Bas-Congo and Equateur provinces.

¶40. (U) The political-military landscape in the eastern DRC changed dramatically in 2009, offering the best prospects for lasting peace in the region in many years. In early 2009, the DRC and Rwanda formally re-established full diplomatic relations and separate peace agreements were signed between the Government of the DRC and various armed groups. Many of the rebel groups agreed to transform their movements from military to political in nature, while the government promised to work toward integrating rebel soldiers and officials into the Congolese military (FARDC),

national police, and national and local political and administrative units. Integration, however, has been piecemeal, and several important rebel formations remain outside the process.

¶41. (U) In addition to continuing instability in the eastern DRC, strikes by civil servants and teachers over salary and benefit issues have occurred and continue to pose a potential source of social upheaval. Military and police personnel remain poorly paid and trained.

Corruption

¶42. (U) U.S. businesses often complain about corruption in the DRC, citing it as a principal constraint to doing business in the country. The Mobutu regime created a culture of corruption in the DRC during more than 30 years of rule. This ingrained culture permeated the private, public, administrative, and business environments and has been difficult to root out. The DRC was rated as the tenth most corrupt country out of 180 nations on Transparency International's 2008 Corruption Perception Index. The

DRC was rated as 162 out of 180 nations on Transparency International's 2009 Corruption Perception Index.

¶43. (U) In principle, there are legal provisions to fight and sanction corruption. The DRC is a member of the UN Anti-Corruption Convention and passed its own anti-corruption law in 2004. Additional legislation includes the 2004 Money Laundering Act, under which the DRC cooperates with African and European crime-fighting organizations. Despite these reform efforts, however, bribery is still routine in public and private business transactions, especially in the areas of government procurement, dispute settlement, and taxation. The DRC is not a signatory of the OECD Convention on Combating Bribery. In September 2007, DRC ratified the protocol agreement with SADC (Southern African Development Community) on Fighting Corruption. The GDRC is also preparing to ratify the African Union Convention on the Prevention and Fighting of Corruption.

¶44. (U) The law calls for imprisonment and fines for both parties to the bribery no matter the circumstances. However, law enforcement remains a challenge in this area.

¶45. (U) In order to enforce anti-corruption laws among civil servants and members of the government, in September 2009, President Kabila launched a "zero-tolerance" campaign. Within this framework, he established the DRC Financial Intelligence Unit to combat money laundering and misappropriation of public funds.

Bilateral Investment Treaties

¶46. (U) The United States and the DRC (then-Zaire) signed a Bilateral Investment Treaty (BIT) in 1984 that entered into force in 1989. This treaty guarantees reciprocal rights and privileges to each country's investors. The BIT provides for binding third-party arbitration in the event of an investment expropriation dispute.

¶47. (U) Germany, France, Belgium, Italy, South Korea, South Africa, and China (PRC) have signed bilateral investment agreements with the DRC. Lebanon, Ivory Coast, and Burkina Faso have negotiated, but not yet signed, bilateral investment treaties with the DRC.

OPIC and Other Investment Insurance Programs

¶48. (U) The U.S. Overseas Private Investment Corporation (OPIC), which provides political risk insurance and project financing to U.S. investors and non-governmental organizations, ceased operations in the DRC for a time following the events of 1991. Since the establishment of the transitional government in June 2003, OPIC has granted three political risk insurance contracts in 2004, another in 2005, and is currently reviewing additional applications by American-owned companies. In March 2006, the DRC signed an accord with OPIC that will expedite the process of obtaining political risk insurance and financing.

¶49. (U) The DRC is a member of the World Bank's Multilateral Investment Guarantee Agency (MIGA), which offers insurance on new

foreign investments to protect against foreign exchange losses, expropriation, and civil unrest. The GDRC is negotiating now for complete resumption of the MIGA program, which would allow for investment insurance in other sectors of the economy. The DRC is also a member of the African Trade Insurance Agency, which also provides political risk insurance.

Labor

¶50. (U) The DRC's large urban population provides a ready pool of available labor, including a significant number of high school and university graduates, a few of whom have studied at American universities. Employers cannot, however, take diplomas at face value. Skilled industrial labor is in short supply and must often be trained by individual companies.

¶51. (U) The GDRC sets regional minimum wages for all workers in private enterprise, with the highest pay scales applied in the cities of Kinshasa and Lubumbashi. Wages have not kept pace with the DRC's rate of inflation. While most foreign employers pay higher wages than the official minimum wage, the average Congolese worker has had to cope with falling real wages for over a decade.

¶52. (U) The country's labor legislation was modified by the October 2002 Labor Code, which is in compliance with the conventions and recommendations of the International Labor Organization. The code provides for tight control of labor practices and regulates recruitment, contracts, the employment of women and children, and general working conditions. Strict labor laws can make termination of employees difficult. The code also provides for equal pay for equal work without regard to origin, sex, or age. The new code formally permits a woman to gain employment outside of her home without her husband's permission.

¶53. (U) Employers must cover medical and accident expenses. Larger firms are required to have medical staff and facilities on site, with the obligations increasing with the number of employees. Mandated medical benefits are a major cost for most firms. Employers must provide family allowances based on the number of

children, and paid holidays and annual vacations, based on the years of service. Employers must also provide daily transportation for their workers or pay an allowance in areas served by public transportation. Outside the major cities, large companies often assist by providing infrastructure, such as roads, schools and hospitals. Many labor regulations have been only sporadically enforced in recent years. The Ministry of Labor must grant permission for staff reductions. Generous pensions and severance packages are required by the labor code.

¶54. (U) Every foreign employee must apply for a work permit from the National Committee of Employment of Foreigners within the Ministry of Labor. The right to strike is recognized and the law provides for reconciliation procedures in cases where the government is not involved.

Foreign Trade Zones/Free Ports

¶55. (U) The DRC does not have any areas designated as free trade zones or have any free ports. The DRC is a member of the Southern African Development Community (SADC) and the Common Market of Eastern and Southern Africa (COMESA), but has not yet joined either the COMESA or SADC free trade areas (FTAs).

Foreign Direct Investment Statistics

¶56. (U) Obtaining reliable statistical data on foreign direct investment (FDI) in the DRC remains a challenge. There are two sources: the Central Bank (BCC) and the National Agency for Investment Promotion (ANAPI).

¶57. (U) BCC statistics are based on funds reported to the bank from actual investment projects underway, and are more accurate than those of ANAPI. These figures, however, may not capture all FDI flowing in the DRC; therefore, the quality of the BCC data is undetermined. Actual FDI amounts are probably higher than the BCC figures shown here. For the last three years, BCC has published the following totals:

FDI (in USD million)

	2006	2007	2008	2009
Total	304	720	1,672.8	1,604.8 (estimates at the end of November 2009)

ANAPI-registered data are obtained from proposals by potential foreign investors. They summarize approved projects in services, the manufacturing sector, the food sector, pharmaceuticals, forestry and agriculture, and infrastructure, The bulk of investments are oriented towards services (telecommunications, health, and housing), representing almost 60 percent of investments reported by ANAPI.

FDI (in USD million)

	2006	2007	2008
Services	1,246	812.46	192.78
Infrastructure	35		67.15
Food	10		34.78
Pharmaceuticals	4		0.00
Beverages/Brewery	0	0	0.00
Agriculture/Forestry	29		141.69
Manufacturing	131	54.20	123.29
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Total	1,455	866.66	559.69

	2009
Services	1,495.95
Infrastructure	209.96
Food	50.75
Pharmaceuticals	3.00
Beverages/Brewery	0.00
Agriculture/Forestry	33.36
Manufacturing	87.13

Total	1,880.15

GARVELINK
GARVELINK